

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

MAR 30 2011

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2010-0401-PR
)	DEPARTMENT B
Respondent,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
CHARLES MONTE REESE, II,)	the Supreme Court
)	
Petitioner.)	
_____)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR20051157

Honorable Howard Fell, Judge Pro Tempore

REVIEW GRANTED; RELIEF DENIED

Barbara LaWall, Pima County Attorney
By Jacob R. Lines

Tucson
Attorneys for Respondent

Barton & Storts, P.C.
By Brick P. Storts, III

Tucson
Attorneys for Petitioner

V Á S Q U E Z, Presiding Judge.

¶1 Petitioner Charles Reese was driving his car while under the influence of alcohol in the early morning of March 2005 and struck the victim, who was riding a motorcycle. The victim died the next day. Reese was charged with second-degree

murder, criminal damage, and three offenses related to driving while under the influence of alcohol (DUI), including extreme DUI apparently based on his having had an alcohol concentration of .205. Reese plead guilty to manslaughter, a class two felony and dangerous-nature offense. After a sentencing hearing at which the victim's family and friends spoke, the trial court sentenced Reese to a partially aggravated, sixteen-year prison term, making clear it had considered letters submitted in support of Reese and a sentencing memorandum defense counsel had filed. Reese sought post-conviction relief, challenging the sentence and the validity of his plea, including related claims of ineffective assistance of counsel. The court denied relief without an evidentiary hearing, and this petition for review followed. We will not disturb the court's ruling unless it clearly has abused its discretion in determining whether post-conviction relief is warranted. *State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007). We see no such abuse here.

¶2 In its nine-page minute entry, the trial court identified the claims Reese had raised and addressed them thoroughly, specifying the case law it had relied upon in reaching the conclusion that Reese had failed to raise a colorable claim. The court's thoughtful, well-reasoned ruling is correct, based on the record before us and the applicable law. The court made clear it had carefully considered all of the claims, belying Reese's contention on review that "the court merely attempted to support its initial sentencing rather than stat[e] the reasons why a colorable claim was not presented." The court found the sixteen-year prison term appropriate notwithstanding the various challenges Reese had raised. No purpose would be served by reiterating the

court's ruling in its entirety here. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993). The court's ruling is supported by the record and the applicable law and Reese has not sustained his burden of establishing the court abused its discretion. Although we grant the petition for review, we adopt the court's ruling and deny Reese's request for relief.

/s/ Garye L. Vásquez
GARYE L. VÁSQUEZ, Presiding Judge

CONCURRING:

/s/ Peter J. Eckerstrom
PETER J. ECKERSTROM, Judge

/s/ Virginia C. Kelly
VIRGINIA C. KELLY, Judge